

**UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA
Western Division**

U.S.A. vs. Victor M. Rivera

Docket No. 5:13-MJ-1816-1

Petition for Action on Probation

COMES NOW Eddie J. Smith, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment of Victor M. Rivera who, upon an earlier plea of guilty to 18 U.S.C. § 13, assimilating N.C.G.S. 20-138.1, Driving While Impaired (Level 4), was sentenced by the Honorable William A. Webb, U.S. Magistrate Judge on March 13, 2014, to 12 months probation under the conditions adopted by the court.

On February 10, 2015, the court extended the term of probation for three months to the new expiration date on June 12, 2015, to allow the defendant additional time to complete his driving while impaired substance abuse counseling and to pay his monetary obligations.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: On March 12, 2015, the defendant was charged in Harnett County, NC, with the offenses of Driving While Impaired, Reckless Driving to Endanger (15CR50874) and Driving While License Revoked (15CR702326). According to Trooper Lee of the North Carolina Highway Patrol, the defendant lost control of his vehicle and crashed into a gas station. When the trooper arrived at the scene of the accident, he performed field sobriety tests in which he states the defendant failed. A Breathalyzer was performed and the defendant blew a .000. Since the defendant failed the field sobriety tests, the defendant was transported to the hospital for a blood test for impairing substances. At the time of the offense, the defendant's driving privilege was revoked. Trooper Lee reports it could be up to a year before the results of the blood test are available. Due to no test at this time showing that the defendant was impaired at the time of the incident, we are recommending that the defendant serve three days in jail as a sanction for driving with a revoked license. Should the blood test become available prior to the expiration of probation, the court will be notified.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that probation be modified as follows:

The defendant shall be confined in the custody of the Bureau of Prisons for a period of 3 days, as arranged by the probation office and shall abide by all rules and regulations of the designated facility

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

/s/ Robert K. Britt

Robert K. Britt

Senior U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Eddie J. Smith

Eddie J. Smith

U.S. Probation Officer

310 Dick Street

Fayetteville, NC 28301

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Executed On: March 31, 2015

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ORDER OF THE COURT

Considered and ordered this 2nd day of April, 2015 and ordered filed and made a part of the records in the above case.



James E. Gates
U.S. Magistrate Judge